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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,386	07/03/2001	Gary R. Rogers	A7977	9876

7590

04/23/2003

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EXAMINER

LE, THANH TAM T

ART UNIT

PAPER NUMBER

2839

DATE MAILED: 04/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/897,386

Applicant(s)

ROGERS, GARY R.

Examiner

Thanh-Tam T. Le

Art Unit

2839

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-5, 7-16 and 18-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Hardwick, III et al. (6,321,013).

Regarding claims 1, 12 and 23, Hardwick, III et al., figure 26, discloses a stack of optical fiber ribbons comprising :

- an outer jacket (126d)
- a central portion (120d); and
- multiple optical modules (30 read on a plurality of removable extensions (column 9, lines 15-18)) bonded to and extending from the central portion. At least one of the extensions containing at least one optical fiber and extending

Art Unit: 2839

from the central portion along an axis different from at least one other extension.

Regarding claims 2-3 and 13-14, the central portion and the plurality of extensions are made from a same fiber optic ribbon matrix material.

Regarding claims 4 and 15, the at least one of the extensions project along a substantially straight line from the central portion.

Regarding claims 5 and 16, means for separating the extensions from the central portion.

Regarding claims 7-9 and 18-20, at least one of the extensions has color code identifier for identification of the extension and each identifier for each extension is different from any other identifier (column 9, lines 5-14).

Regarding claims 10-11 and 21-22, the central portion and the extensions comprises at least one strength member.

Regarding claim 24, at least two of the plurality of multi axis ribbon are intertwined with each other such that a first one of the two ribbon extends into a space created by at least two of the extension on a second of the two ribbons.

Regarding claims 25-28, the at least one extension is formed integrally/a single unit with the central portion.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6 and 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Hardwick, III et al. (6,321,013) in view of Greveling et al. (5,970,196).

Hardwick, III et al. discloses the instant claimed invention as described above except for a thickness of each extension at a point the extension contacts the central portion is less than a thickness at a point the extension beyond the central portion.

Greveling et al., figure 3, disclose buffer tube (20) having a removable section (30) which read on a thickness of each extension at a point the extension contacts the central portion is less than a thickness at a point the extension beyond the central portion. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hardwick, III et al. to have the removable section as taught by Greveling et al., in order to easy separation of the buffer tube for access to optical fibers in the tube (Greveling et al.'s abstract).

Art Unit: 2839

Response to Arguments

5. Applicant's arguments filed 1/23/03 have been fully considered but they are not persuasive.

6. Applicant argues that Harkwick fails to disclose the modules (30) are bonded to the central member (120d), as claimed in the present invention.

7. The Examiner disagrees.

The limitation "bonded" is a broadly interpreted by the Examiner. Therefore, Harkwick is still a good reference for the final rejection.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2839

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh-Tam T. Le whose telephone number is (703) 306-5711. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn Feild can be reached on (703) 308-2710. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

TL.
April 12, 2003



LYNN FEILD
SUPERVISORY PATENT EXAMINER
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